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Ī	APPLICATION NO.	I	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
	10/665,793		09/19/2003	Edward J. Kaplan	KAP 100 CIP	6738	
	23579	7590	07/27/2006		EXAMINER		
	PATREA L	. PABS	Γ	SAMALA, JAGADISHWAR RAO			
	PABST PAT				ADTIBUT	DARED MENORED	
	400 COLON	IY SQUA	.RE		ART UNIT	PAPER NUMBER	
	SUITE 1200			1618			
	ATLANTA, GA 30361				DATE MAILED: 07/27/2006	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

r.		-	Application No.	Applicant(s)					
			10/665,793	KAPLAN, EDWAI	RD J.				
	Office Action Summary	E	xaminer	Art Unit					
		J	agadishwar R. Samala	1618					
Period fo	The MAILING DATE of this commun or Reply	nication appea	rs on the cover sheet w	th the correspondence a	ddress				
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR CHEVER IS LONGER, FROM THE MINISTRATE IN LONGER, FROM THE MINISTRATE IN LONGER, FROM THE MINISTRATE IN LONGER IN LONG	MAILING DAT s of 37 CFR 1.136(a munication. tatutory period will a y will, by statute, ca	E OF THIS COMMUNION. In no event, however, may a repply and will expire SIX (6) MONuse the application to become AB	CATION. reply be timely filed ITHS from the mailing date of this of BANDONED (35 U.S.C. § 133).					
Status									
1)[Responsive to communication(s) file	ed on							
·	·		ction is non-final.						
3)		•		ers, prosecution as to the	e merits is				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.									
Disposit	ion of Claims		•						
· _	Claim(s) 1-34 is/are pending in the	annlication							
•	4a) Of the above claim(s) is/a	• •	from consideration						
	Claim(s) is/are allowed.		monr conclusion.						
· · ·	Claim(s) <u>1-34</u> is/are rejected.								
7)	Claim(s) is/are objected to.								
'=	Claim(s) are subject to restrict	ction and/or e	lection requirement.						
	· · · · · · · · · · · · · · · · · · ·	J. 1011 G. 101 G	ioonon roquii orrionii.						
Applicat	on Papers								
9)[The specification is objected to by the	e Examiner.							
10)⊠	0)⊠ The drawing(s) filed on 19 September 2003 is/are: a)⊠ accepted or b)☐ objected to by the Examiner.								
	Applicant may not request that any object	ction to the dra	wing(s) be held in abeyar	nce. See 37 CFR 1.85(a).					
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11)	The oath or declaration is objected t	o by the Exan	niner. Note the attached	d Office Action or form P	TO-152.				
Priority (ınder 35 U.S.C. § 119								
	I2) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:								
	1. Certified copies of the priority								
	2. Certified copies of the priority			•					
	3. Copies of the certified copies	•		received in this National	l Stage				
	application from the Internation	•	` ''						
* 5	See the attached detailed Office action	on for a list of	the certified copies not	received.					
Attachmen	• •								
1) 🔀 Notic 2) \square Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (F	OTO-048\		Summary (PTO-413) s)/Mail Date					
3) 🔲 Infor	e of Draitsperson's Patent Drawing Review (F nation Disclosure Statement(s) (PTO-1449 or r No(s)/Mail Date			nformal Patent Application (PT)	O-152)				

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 34 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim (34) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specifications describe that brachytherapy strand or seed comprising elastic but not the spacers are elastic in the strand.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 16 is drawn to a brachytherapy strand comprising of seeds. This claim is confusing, because claim 1 already states, what is claimed is a strand or a seed.

Claim 21 is rejected under 35 U.S.C 112, second paragraph, as being improperly referring to post claim.

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim, which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1,3, 5-14,16-21 and 24-34 rejected under 35 U.S.C. 102(b) as being anticipated by Slater (Slater et al, US 6,200,258).

Slater (258) discloses a method of design and enclosure of radioactive therapeutic seeds in biocompatible carrier, see column 1,lines 20-34. Slater (258) further discloses that the radioactive therapeutic seeds bearing a radioactive isotope and a radiopaque marker are provided with transverse bore accessible from the exterior of the seed for filling the cavities or pores with therapeutic or diagnostic agents, see column 3, lines 25-28. Slater (258) also discloses therapeutic metal seed enclosed in a cylindrical capsule made of low atomic number biocompatible materials. Slater (258) also teaches that a radiopaque marker is enclosed inside the seed for tracing with x-ray or by fluoroscopic examination, see column 1, lines 49-52, 64-66 and column 2, lines 4-8.

Claims 1, 2,4 and 15 rejected under 35 U.S.C. 102(b) as being anticipated by Widder. (Widder et al, US 4,247,406). Widder (406) discloses biodegradable carrier comprising micro spheres formed from an natural amino acids (proteins) and synthetic amino acids polymers matrix and also water soluble proteins such as hemoglobin used for administrating a wide variety of therapeutic or diagnostic agents, see column 2, lines 22-29. This disclosures render the claims anticipated.

Claims 1,3, 22 and 23 rejected under 35 U.S.C. 102(b) as being anticipated by Glajch (Glajch et al, PG.Pub. US 2002/0114763). Glajch (763) discloses a radio therapeutic agent as solid or porous inorganic material having a suitable radionuclide. The inorganic material includes mixtures of monomeric and

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polymeric forms thereof, see page 1 (0001). Glajch (763) also describes that the radio therapeutic agent comprising a pharmaceutically acceptable biocompatible carrier, to treat a tissue or organ system of patient, see page 2. 9(0033)

Claims1, 3, 22,23, 27-29 and 31 rejected under 35 U.S.C. 102(b) as being anticipated by Yli – Urpo et al (US 5,762,950). Yli-Urpo (950) discloses a method of preparing a bioceramic system for delivery of a bioactive compound comprising of hydroxyapatite, bioactive ceramic and thereof, see column 1, lines 51-54.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goffinet (US,4,763,671) discloses a method of treating a massive adenoid cystic tumor on the base of tongue, see column 6, lines 47-68 and column 7, lines 1-5, but is cumulative to the reference cited herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagadishwar R. Samala whose telephone number is (571)272-9927. The examiner can normally be reached on 8.30 A.M to 5.00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571)272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jagadishwar R. Samala

Examiner

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sjr

MICHAEL G. HARTLEY SUPERVISORY PATENT EXAMINER